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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,537	12/22/1999	BRANDON A. GROOTERS	98-0722	6274

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GATEWAY, INC.  
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EXAMINER

YENKE, BRIAN P

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/470,537

Applicant(s)

GROOTERS, BRANDON A. *B*

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment (22 April 2002).
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1, Applicant's arguments filed 22 April 2002 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by **Darbee et al., US 6,130,726**.

**Darbee discloses a “Program Guide on a Remote Control Display” which provides the user the ability to browse additional programming**

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**information/advertisements without interrupting the display of the television monitor.**

In considering claims 1, 8 and 14-17,

1) the claimed first information handling system...**is met by a television receiver or set-top box (col 4, line 20-32)**

2) the claimed second information handling system...**is met by remote control 10 (Fig 1)**

3) the claimed said first information handling system being capable of displaying...**is met by a television receiver or a set-top box connected to a display**

4) the claimed said first information handling system being capable of responding...**is met where a channel change/selection via user (remote 10)**

5) the claimed said second information handling system being capable of displaying...**is met by display 14 (Fig 1). Where the remote control 10 receives an input via user, and selectively downloads to and stores within the remote upon identification of the user advertising and programming data based upon the users viewing habits and preferences (col 3, line 31-39). Since the amount of memory in a remote control must be minimized, one or more unique serial numbers and/or addresses may be stored in memory in the remote control which can be used to filter and/or parse data transmitted by an associated set-top box or RF tap. This makes it possible to send specific program guide, advertising or other information to individual users. The remote control 10 may also receive blocks of program**

**guide data each time a user activates remote control 10 or uses remote control 10 to select a channel for viewing (col 9, line 14-20).**

In considering claim 2-5 and 9-11,  
**Darbee discloses that a television (or set-top box) communicates to remote 10 via infrared 34 (receive) and RF 48 (Rx/Tx), where remote 10 communicates to the television (or set-top box) via IR 35 (transmit) and RF 48 (Rx/Tx) (Fig 2).**

In considering claims 6-7 and 12-13,  
1) the claimed said first information handling system...**is met where the television displays a selected channel, or program guide based on a users selection via remote (10).**  
2) the claimed second information handling system...**is met where remote 10 provides a channel up/down 18, EZ navigator 20, EZ information 22, EZ Guide 24 and EZ Menu Key 25 among others (col 6, line 50-61).**  
3) the claimed said event related program guide data is capable...**is met where remote 10 receives and stores data comprising a guide which covers a 24-hour period (col 8, line 20-26).**

In considering claims 18-20,  
**Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search**

**other channels, menu, guides without disrupting the main display. The remote control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).**

In considering claims 21-22,

- 1) the claimed upon the occurrence... **is met by a television (or set-top box) which receives an input via remote 10**
- 2) the claimed transmitting the event related program guide data... **is met by a television (or set-top box) which receives a user input via remote 10 (either RF or IF) and where the television transmits the desired information into remote 10 (via receive RF 48 or IR 34).**
- 3) the claimed storing the transmitted even related program... **is met where remote 10 comprises a microcontroller 28 which controls the processing of data utilizing bus 42 and memories 36 and 42.**
- 4) the claimed displaying at least a portion of the event related program guide data... **is met where display (LCD 14) of remote 10 displays the desired program guide information based on users input.**

In considering claims 23-26,

**Darbee discloses a remote control device 10 which is able to display what the main display (television) is displaying and also gives the user the ability to search other channels, menu, guides without disrupting the main display. The remote**

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**control stores data comprising a guide which covers a 24-hour period which will preferably be updated at 4:00am each day (col 8, line 20-26).**

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al., US 6,130,726.

In considering claims 27-28,

- 1) the claimed first information handling system... **is met by a television receiver or set-top box (col 4, line 20-32)**
- 2) the claimed second information handling system... **is met by remote control 10 (Fig 1) which includes an LCD display 14 (Fig 1)**

**However, Darbee remains silent on the being capable of displaying program content and displaying program guide data on the television receiver or set-box (first display).**

**Darbee discloses a remote control device 10, which is able to display information consisting of a program guide, advertising data and internet content (col 7, line 43-65). Remote control 10 also which is able to control of a selection of both television and internet content for depiction on an associated monitor or**

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**other display (col 2, line 56-59). Where remote control 10 may be dedicated to controlling only one host device utilizing both RF or IF transmission/reception, or can be dedicated as a universal remote control capable of controlling multiple devices (i.e. television sets, tape decks, CD players, laser disc players, stereo tuners, and/or personal computers, web computers or web browser applications (col 4, line 48-57).**

**Darbee also discloses in the background, that EPGs normally are displayed on the screen of a television set or set-top box, with the guide data either replacing or overlaying the program the user is watching (col 1, line 29-39).**

**The applicant also states in the background, that typically the program guide is displayed on a display in a grid style format so that the user can easily browse the EPG data for programs of interest.**

**Therefore, it would have been obvious to one of ordinary skill in the art to utilize a television or set-top box (first display) which displays both program content and program data simultaneously as disclosed in the background of Darbee, in order to provide the user(s) not only a remote which can display data/content but also a television (set-top box), since the remote control can be used by another user located in another room, where the remote control display would not be visible to the other user.**

In considering claims 29-30,



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The examiner takes "OFFICIAL NOTICE" in regards to a display which displays both program guide data and content where the display of program guide is done so on a smaller portion of the display than the content (i.e. minimally invasive and minimally interfering manner).

The display of a program guide (EPGs) into a display device is to provide the user the ability to peruse the listing of available (to be available) channels/programs of interest.

Prior Art systems utilize an overlay (Picture-in-Picture, Picture-on-Picture) display where the user has the ability the data, i.e. 2 data sources, either in proportional sizes (i.e. two screens), or making one the primary (larger) image and the other the secondary (smaller) image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a conventional television display where the user is able to visibly display the main image and also display the program guide data (secondary image), where the secondary image does minimally interferes the main display by being displayed in a smaller size relative to the main (primary) image.

### ***Applicant's Arguments***

a) In reference to claims 1, 8 and 14, applicant states that Darbee (prior art reference) does not teach a remote which determines whether program guide data is available in the remote device.

***Examiner's Response***

a) The examiner disagrees. As stated above in the rejection, the remote control 10, receives information based on the identity of a user, where based on a users identification, receives/filters/parses out data according to users preferences/viewing habits. Also, remote control 10 includes software which enables the remote to update/modify/complete specific fields prior to display (col 16, line 61-62). Where the remote control performs conventional operations including, ON, OFF, Volume Up or Down and Channel Up or Down Functions as well as program guide display, advertising display, internet content display and/or system monitoring functions (col 7, line 43-52). Therefore, the remote control 10 is constantly monitoring the user and once the user is identified the remote is monitoring the commands entered from the user and also retrieving/filtering/parsing out the appropriate data to display to the respective user.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Allport, US 6,097,441 discloses a "System For Dual-Display Interaction With Integrated Television and Internet Content", where both the TV (conventional or advanced) and remote control unit are able to display video and outside data (e.g. internet)**

The following are prior art's made of record in the previous office action, 15 February 2002.

**Kumai, US 5,898,398 discloses a "Remote Control Device and Remote Control Method" where a remote control with a display which receives FM multiplex broadcasting."**

**Margulis, US 6,263,503 discloses a system, which implements a wireless television with a remote control with a display, and incorporates various program sources to produce a processed stream.**

**Allport, US 6,097,441 discloses a system dual system (TV and remote w/display), which provides integrated television and internet content.**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231


**or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-4700

B.P.Y.

09 JULY 2002

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600